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BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

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## Resolution No. 2012-2-01

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana Public Retirement System exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.2-1-5](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-1-5](#) Confidentiality of fund records administered by the Indiana public retirement system**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 2-3.5](#); [IC 4-1-6](#); [IC 5-10.2](#); [IC 5-10.3](#); [IC 5-10.4](#); [IC 5-10.5-6-4](#); [IC 29-1-8-1](#); [IC 29-1-8-1.5](#); [IC 29-3](#); [IC 33-38](#); [IC 36-8](#)

**Sec. 5. (a) This rule applies to all pension trust funds administered by INPRS.**

**(b) INPRS fund records of individual members and membership information are confidential, except as provided in [IC 5-10.5-6-4](#). INPRS may in its sole discretion provide member records or membership information to members of the Indiana general assembly or their agents when such information is necessary to accomplish legal functions of such members of the general assembly, or to:**

- (1) state agencies pursuant to and in accordance with the Fair Information Practices Act when such information is necessary to accomplish the statutory functions of such agencies;**
- (2) independent bodies corporate and politic to accomplish statutory functions of such independent bodies so long as such independent bodies are contractually bound by a confidentiality agreement approved by INPRS and where in INPRS' sole discretion determines there is a necessity to provide such records;**
- (3) service providers who contract with INPRS so long as such service providers are contractually bound by a confidentiality agreement approved by INPRS and where in INPRS' sole discretion determines there is a necessity to provide such records;**
- (4) any person with express permission of the member, the member's attorney in fact, or guardian of the member established under the Indiana Probate Code;**
- (5) an active member's covered employer where in INPRS' sole discretion determines there is a necessity to provide such records so long as such employers are contractually bound by a confidentiality agreement approved by INPRS;**
- (6) the designated beneficiary or beneficiaries of a deceased member, personal representative of a deceased member with letters of *[sic]* testamentary, or to a person pursuant to an affidavit described in [IC 29-1-8-1](#) or [IC 29-1-8-1.5](#); however, such release of information is limited to the information required to be released by statute or is necessary to accomplish the legal functions of the personal representative or the affiant; or**
- (7) comply with state or federal law, subpoena, discovery pursuant to the Indiana rules of trial procedure or the Indiana Orders and Procedures Act, or other court order.**

*(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-1-5](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))*

SECTION 2. [35 IAC 1.2-2-1](#) IS AMENDED TO READ AS FOLLOWS:

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**35 IAC 1.2-2-1 Definitions**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3-2-1](#); [IC 5-10.3-7](#); [IC 5-10.5](#)

Sec. 1. The following definitions apply throughout this title, unless the context otherwise clearly requires:

- (1) "After the member's retirement", for purposes of [IC 5-10.2-4-8\(b\)](#), means when a member separates from employment.
- (2) "Annuity savings account" or "ASA" consists of the member's contributions whether paid by the member or picked up by the employer, additional annuity contributions, and interest credits on these contributions.
- (3) "Board" means the board of trustees of the public employees' retirement fund of Indiana.
- (4) "Ceases service", for purposes of [IC 5-10.2-4-3\(e\)](#) only, means when a member stops earning creditable service.
- (5) "De minimis account" or "de minimis amount" means an inactive, retired, retired for disability, suspended, or deceased member's ASA account whereby no regular and continuing contributions are being received and the account has a balance of which the value is less than the actual cost of making a distribution of the balance to the member or the member's beneficiary.
- (6) "De minimis overpayment" means an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account which received an overpayment totaling no more than ten dollars (\$10).
- (7) "Employer" means the state for employees of the state and a participating political subdivision for its employees.
- (8) "Employer contributions" means contributions made by the state and political subdivisions to the retirement allowance account.
- (9) "ERM" means the employer reporting and maintenance system, a web-enabled software application that manages employer and member data and collects members' wages and contributions.
- (10) "Full-time employee" means an employee occupying a position covered by the fund as set out in [IC 5-10.3-7](#).
- (11) "Fund" means the public employees' retirement fund of Indiana.
- (12) "Gender and number" means the masculine gender shall include the feminine, and the singular the plural as the context may require.
- (13) "Governing body" means the county council, city council, trustees of a town, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.
- (14) "Indiana pension administration system" or "INPAS" means the defined benefit system, a software application that manages employer and member data and calculates member retirement, disability, and survivor benefits.**
- ~~(14)~~ **(15) "Member" means persons qualifying for membership under [IC 5-10.3-7-1](#).**
- ~~(15)~~ **(16) "Member's contribution" means contribution which each member shall, as a condition of employment, contribute to the fund, which is three percent (3%) of the member's compensation (basic salary as defined in [35 IAC 1.2-5-5](#)), and which includes contributions paid by the employer for the member pursuant to [IC 5-10.2-3-2](#) and [IC 5-10.3-7-9](#), and additional annuity contributions.**
- ~~(16)~~ **(17) "PERF" means the public employees' retirement fund.**
- ~~(17)~~ **(18) "Political subdivision" means a county, city, town, township, political body corporate, public school corporation, public library, public utility of a county, city, town, township, and any department of, or associated with, a county, city, town or township, which department receives revenue independently of, or in addition to, funds obtained from taxation.**
- ~~(18)~~ **(19) "Retirement allowance account" consists of employer contributions for pensions and separate accounts shall be maintained for contributions by the state and by each political subdivision.**
- ~~(19)~~ **(20) "Vested status" means the status of having ten (10) years of creditable service.**

*(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-2-1](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Jun 11, 2010: [20100728-IR-035100467ONA](#); adopted Nov 19, 2010: [20101208-IR-035100722ONA](#); adopted Dec 17, 2010: [20101229-IR-035100777ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))*

SECTION 3. [35 IAC 1.2-4-7](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-4-7](#) Prosecuting attorneys' retirement fund highest annual salary defined**

**Authority:** [IC 33-39-11](#); [IC 5-10.5-7-5](#)

**Affected:** [IC 33-39-7-16](#)

Sec. 7. (a) The highest annual salary is the sum of the highest completed consecutive four (4) quarters of salary that was paid to the participant before retirement.

**(b) Notwithstanding subsection (a), once INPRS implements INPAS, the highest annual salary is the sum of the highest completed twelve (12) months of salary that was paid to the participant before retirement.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-4-7](#); adopted Apr 29, 2011: [20110511-IR-035110273ONA](#); adopted Sep 16, 2011: [20110928-IR-035110563ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))

SECTION 4. [35 IAC 1.2-5-13](#) IS AMENDED TO READ AS FOLLOWS:

### **[35 IAC 1.2-5-13](#) Beneficiary designation**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 13. (a) Active members may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the member's annuity savings account equally or designated by whole percentage increments upon the death of the member. Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

(b) Members electing a joint survivor option at retirement shall designate only one (1) person as beneficiary for their joint survivor benefits. The beneficiary must be a named individual.

(c) Retired members who choose a retirement option other than a joint and survivor option and who do not elect to withdraw the total balance of their annuity savings account may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the unpaid balance, if any, of the member's annuity savings account upon the death of the member. Members may designate that the assets held in the account shall be divided equally or allocated by whole percentage increments to primary and contingent beneficiaries. Such designations must be on the appropriate form. Forms must be filed and accepted by the fund before they are effective. Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

(d) If a member has designated more than one (1) primary beneficiary, and one (1) or more of the primary beneficiaries predecease the member and the member does not complete a new beneficiary designation form, the remaining primary beneficiaries will receive an apportioned pro rata share based on the remaining primary beneficiaries' allocated percentages of the deceased primary beneficiary(ies) **beneficiary or beneficiaries** portion. For example, member X designates three (3) primary beneficiaries as follows: Ann 60%, Bob 30%, and Carl 10%. Ann predeceases member X, and member X does not submit a new beneficiary designation form. Member X had \$10,000 in her annuity savings account (ASA) at the time of her death. Ann's 60% share will be divided between Bob and Carl as follows: Bob \$4,500 and Carl \$1,500. Therefore, the total amount that Bob will receive from member X's ASA is \$7,500, and the total amount that Carl will receive from member X's ASA is \$2,500.

(e) The designated beneficiary's right to a benefit vests upon the death of the member. A change of beneficiary designation must be made in a manner and form approved by the board and must be filed with the fund before the time and date of death of the member. ~~If the beneficiary designation was received by the fund on or before the time and date of death of the member, and is otherwise acceptable, it shall be deemed to have met this requirement.~~ **distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary to the member's estate. A change of beneficiary designation received after the distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary, to the member's estate is not valid.** A beneficiary designation for the ASA or RSA must be witnessed by an individual other than the member's designated beneficiary. Timely electronic beneficiary designations submitted through the fund's website in a form and manner approved by the board shall be deemed to have met the requirements of this rule. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-13](#); filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted

filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Jun 11, 2010: [20100728-IR-035100467ONA](#); adopted Apr 29, 2011: [20110511-IR-035110273ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))

SECTION 5. [35 IAC 1.2-8-4](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-8-4](#) Thirteenth check**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-5.5](#); [IC 5-10.2](#); [IC 5-10.3](#); [IC 5-10.4](#); [IC 5-10.5](#)

Sec. 4. Unless otherwise provided by law, eligible multiple survivor beneficiaries authorized to receive a one (1) time ad hoc payment commonly known as the thirteenth check shall receive a pro rata share of the underlying amount that a single survivor beneficiary would receive had there been only one (1) eligible survivor beneficiary designated on a member's account administered by the system. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-8-4](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))

SECTION 6. [35 IAC 2-9-5](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 2-9-5](#) Local determination and transfer to PERF**

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-3.2-3](#); [IC 36-8-3.2-3.5](#); [IC 36-8-8-7](#); [IC 36-8-8-19](#)

Sec. 5. (a) The examining physician shall send the results of the comprehensive general medical history and physical examination to the local board.

(b) Once the local board determines that the candidate satisfies any physical and mental standards established by the appointing authority or the local board, the baseline statewide physical examination, and the baseline statewide mental examination, the local board shall send PERF the following:

(1) Copies and certification of the results of the general medical history and baseline statewide physical examination required under [IC 36-8-8-7](#) and [IC 36-8-8-19](#).

(2) Certification of the results of the physical agility examination required under [IC 36-8-3.2-3](#) or [IC 36-8-3.2-3.5](#).

(3) Certification of the results of the baseline statewide mental examination required under [IC 36-8-8-7](#) and [IC 36-8-8-19](#).

(c) The local board shall submit the certification of the results of the baseline statewide physical examination within six (6) months of the date of the examination. If INPRS receives the certification of the results of the baseline statewide physical examination more than six (6) months from the date of the examination, the local board has not met the requirements for the transfer of the local determination under [35 IAC 2-9-5](#) [this section]. However, if the date of an applicant's baseline statewide physical examination is more than six (6) months prior to the date the certification of the baseline statewide physical examination is received by INPRS, the applicant may petition INPRS to accept the certification. Such petition must be in writing signed by the petitioner and provide the reason why such certification should be accepted. Upon review of the petition, INPRS in its sole discretion shall determine whether to accept or reject the certification. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-9-5](#); filed May 27, 1993, 12:00 p.m.: 16 IR 2340, eff Jul 1, 1993; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))

SECTION 7. [35 IAC 14-4-4](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 14-4-4](#) Member designation of beneficiaries**

Authority: [IC 5-10.4](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3-7.5](#); [IC 5-10.2-3-10](#); [IC 5-10.4-4-10](#)

Sec. 4. (a) A new member shall designate, by name, primary and secondary beneficiaries to receive the assets present in the annuity savings account equally or designated by whole percentage increments on the occasion of the member's death prior to retirement, less any disability benefits paid.

(b) A member who establishes a rollover account pursuant to [IC 5-10.2-3-10](#) may designate a beneficiary or beneficiaries separate from those designated on the member's annuity savings account under the requirements

(c) A member may name more than one (1) individual as primary or contingent beneficiaries of the member's annuity savings account or rollover account. Members may designate that the assets held in the account shall be divided equally or allocated by whole percentage increments to primary and contingent beneficiaries. Upon the member's death, the assets held in the account shall be divided equally among the surviving primary beneficiaries or, if none, among the surviving contingent beneficiaries, or by whole percentage increments to such beneficiaries if the member has designated percentage increments on a TRF form. Alternative beneficiary designations, such as per stirpes or by representation, will not be accepted or recognized by the fund. If a member has designated more than one (1) primary beneficiary, and one (1) or more of the primary beneficiaries predecease the member and the member does not complete a new beneficiary designation form, the remaining primary beneficiaries will receive an apportioned pro rata share based on the remaining primary beneficiaries' allocated percentages of the deceased primary beneficiary or beneficiaries portion. For example, member X designates three (3) primary beneficiaries as follows: Ann 60%, Bob 30%, and Carl 10%. Ann predeceases member X, and member X does not submit a new beneficiary designation form. Member X had \$10,000 in her annuity savings account (ASA) at the time of her death. Ann's 60% share will be divided between Bob and Carl as follows: Bob \$4,500 and Carl \$1,500. Therefore, the total amount that Bob will receive from member X's ASA is \$7,500, and the total amount that Carl will receive from member X's ASA is \$2,500.

(d) A member may name a trust, the member's estate, or other legal entity as the beneficiary of the member's annuity savings account or rollover account.

(e) The designated beneficiary's right to a benefit vests upon the death of the member. A change of beneficiary designation must be made in a manner and form approved by the board and must be filed with the fund before the time and date of death of the member. ~~If the beneficiary designation was received by the fund on or before the time and date of death of the member, and is otherwise acceptable, it shall be deemed to have met this requirement.~~ **distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary to the member's estate. A change of beneficiary designation received after the distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary, to the member's estate is not valid.** A beneficiary designation for the ASA or RSA must be witnessed by an individual other than the member's designated beneficiary. Timely electronic beneficiary designations submitted through the fund's website in a form and manner approved by the board shall be deemed to have met the requirements of this rule.

*(Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-4-4](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 707; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Apr 21, 2010: [20100505-IR-550100241ONA](#); adopted Nov 19, 2010: [20101208-IR-550100723ONA](#); adopted Apr 29, 2011: [20110511-IR-550110274ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#))*

*NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-4-5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-4-4](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

#### SECTION 8. [35 IAC 14-9-8](#) IS REPEALED.

DATED: February 17, 2012  
Kendall W. Cochran,  
Chairman of the Board of Trustees  
Indiana Public Retirement System

Resolution adopted by 7 affirmative, 0 negative votes.

*Posted: 02/22/2012 by Legislative Services Agency*  
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